



# Special Notice

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## California Supreme Court allows state to continue collecting the environmental fee while developing new regulations

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OF EQUALIZATION

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### Taxpayers' Rights

**Advocate:** 888-324-2798

### Information Center

800-400-7115  
TTD/TTY: 800-735-2929

We are sending you this notice since your corporation has previously paid the California environmental fee. A recent court decision may lead to changes in the fee requirements. It could also result in future refunds to certain companies.

### Environmental fee collection to continue while DTSC develops regulations

State law requires certain businesses that use, generate, store, or conduct activities in California related to hazardous materials to pay the environmental fee. The fee helps fund state hazardous waste regulation programs administered by the Department of Toxic Substances Control (DTSC).

The California Supreme Court recently decided a case related to the fee, *The Morning Star Company v. State Board of Equalization and Department of Toxic Substances Control* (38 Cal.4th 324). The company sued to obtain a refund of environmental fees it had paid. It claimed the DTSC had violated the state's Administrative Procedures Act by determining which corporations must pay the fee without first adopting a regulation.

The court partially agreed. It required the DTSC to develop and adopt regulations to define which businesses are subject to the fee. But the court also allowed us to continue collecting the fee without any change until the regulations are complete.

The DTSC will be developing the regulations in the coming months. For more information, see [www.dtsc.ca.gov/IDManifest/Fees.cfm](http://www.dtsc.ca.gov/IDManifest/Fees.cfm).

### Case background: Basis for Morning Star suit

In administering the fee, the DTSC determined that all California corporations with 50 or more employees conduct activities related to hazardous materials. The DTSC noted that even common products such as computers and copying machines contain hazardous materials. The Morning Star Company claimed that its everyday business did not involve hazardous materials and filed a claim for refund. The Board of Equalization denied the refund based on the DTSC determination. The company then filed suit.

### Possibility of future refunds

The court decision did not require or authorize environmental fee refunds. But if the new regulation determines that certain businesses are not subject to the fee, you may be able to receive a refund of fees you have paid.

Claims for refund must be filed within three years of the due date of the return on which the overpayment was made. You may want to file a claim now if you think you may be entitled to a refund as a result of this case.

Your claim must be in writing. It should include your account number and state all of the reasons you think you paid more fees than you owed. It should also specify the period covered by your claim and the claim amount.

Your claim can be as simple as a letter. Or you can use our *Claim for Refund or Credit* (form BOE-101). You can download a copy from our website, [www.boe.ca.gov](http://www.boe.ca.gov).

Be sure to refer to the Morning Star case in your claim letter or on the form. Mail your letter or claim to:

Environmental Fees Section, MIC:57  
State Board of Equalization  
P.O. Box 942879  
Sacramento, CA 94279-0057  
Phone: 916-323-9555